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Filing date: **02/11/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92045238
Party	Defendant Berry Plastics Corporation Berry Plastics Corporation 101 Oakley Street P.O. Box 959 Evansville, IN 477060959
Correspondence Address	Julia Spoor Gard Barnes & Thornburg LLP 11 South Meridian Street Indianapolis, IN 46204-3535 UNITED STATES jgard@btlaw.com
Submission	Other Motions/Papers
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Date	02/11/2006
Attachments	OppositiontoMotionforDefaultJudgmentSNAPLOC.pdf ( 3 pages ) AnswertoPetitiontoCancelSNAPLOC.pdf ( 3 pages )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Rexam Closures and Containers, Inc.	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No. 92045238
	)	Registration No. 2827685
Berry Plastics Corporation	)	
	)	
Registrant.	)	
	)	

OPPOSITION TO MOTION FOR DEFAULT JUDGMENT  
AND REQUEST FOR ACCEPTANCE OF LATE FILED ANSWER ON THE GROUNDS  
OF GOOD CAUSE

Registrant Berry Plastics Corporation respectfully submits this Opposition to Petitioner's Motion for Default Judgment and its request for acceptance of the attached Answer, on the grounds of good cause. In support of this Opposition, Registrant states:

1. U.S. Trademark Registration No. 2,827,685 for the mark SNAPLOC was registered on March 30, 2004 (the "Registration").
2. Unbeknownst to Registrant, on December 7, 2005, Petitioner filed a Petition for Cancellation for the Registration.
3. The Trademark Trial and Appeal Board (the "Board") database shows that the Notice of Petition for Cancellation was mailed to Registrant on December 14, 2005
4. However, Registrant did not receive the Notice and therefore did not have knowledge of the cancellation proceeding.
5. Petitioner filed a Motion for Default Judgment concerning the Petition for Cancellation on February 2, 2006.

6. Registrant's first knowledge of the present cancellation proceeding came with receipt of the Notice of Petitioner's Motion for Default Judgment. Accordingly, Applicant has not received fair or due notice of the initiation of the subject cancellation proceeding.

7. Registrant will be unduly prejudiced and may suffer irreparable harm by the lack of notice of the initiation of the subject cancellation proceeding.

8. Therefore, for the reasons stated above, it is respectfully requested that the Board permit Registrant fair opportunity to respond to the present cancellation proceeding and accept Registrant's Answer to the subject Petition for Cancellation attached hereto as Exhibit A.

Respectfully submitted,

Date: February 11, 2006

/s/David A.W. Wong

Julia Spoor Gard  
Mary Jane Frisby  
David A.W. Wong  
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was served on February 11, 2006 on the parties listed below by First Class U.S. Mail, postage prepaid.

Julie Ann Gregory  
Brian P. McGraw  
MIDDLETON REUTLINGER  
2500 Brown & Williamson Tower  
Louisville, KY 40202

/s/David A.W. Wong  
David A.W. Wong

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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Petitioner,	)	
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v.	)	
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	)	
Registrant.	)	
<hr/>	)	

Cancellation No. 92045238  
Registration No. 2827685

**REGISTRANT BERRY PLASTICS CORPORATION'S ANSWER TO PETITION FOR  
CANCELLATION**

Registrant Berry Plastics Corporation, for its Answer to the Petition for Cancellation by Rexam Closures and Container's Inc., respectfully states:

1. Registrant is without sufficient information to admit or deny the allegations of paragraph 1 of Petitioner's Petition to Cancel and therefore denies same.
2. Registrant is without sufficient information to admit or deny the allegations of paragraph 2 of Petitioner's Petition to Cancel and therefore denies same.
3. Registrant is without sufficient information to admit or deny the allegations of paragraph 3 of Petitioner's Petition to Cancel and therefore denies same.
4. Registrant is without sufficient information to admit or deny the allegations of paragraph 4 of Petitioner's Petition to Cancel and therefore denies same.
5. Registrant denies the allegations of paragraph 5 of Petitioner's Petition to Cancel.
6. Registrant admits the allegations of paragraph 6 of Petitioner's Petition to Cancel.
7. Registrant admits the allegations of paragraph 7 of Petitioner's Petition to Cancel.

8. Registrant is without sufficient information to admit or deny the allegations of paragraph 8 of Petitioner's Petition to Cancel and therefore denies same.

9. Registrant denies the allegations of paragraph 9 of Petitioner's Petition to Cancel.

10. Registrant is without sufficient information to admit or deny the allegations of paragraph 10 of Petitioner's Petition to Cancel and therefore denies same.

11. Registrant denies the allegations of paragraph 11 of Petitioner's Petition to Cancel.

12. Registrant denies the allegations of paragraph 12 of Petitioner's Petition to Cancel.

13. Registrant denies the allegations of paragraph 13 of Petitioner's Petition to Cancel.

14. Registrant denies the allegations of paragraph 14 of Petitioner's Petition to Cancel.

15. Registrant denies the allegations of paragraph 15 of Petitioner's Petition to Cancel.

WHEREFORE, Registrant requests that Petitioner's Petition to Cancel U.S. Reg. No. 2,827,685 be denied and that that it be granted all other just and proper relief.

Respectfully submitted,

Date: February 11, 2006

/s/David A. W. Wong  
Julia Spoor Gard  
Mary Jane Frisby

David A.W. Wong  
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